

JUSTIFICATION FOR OTHER THAN FULL AND OPEN COMPETITION (JOFOC)
(In accordance with Federal Acquisition Regulation (FAR) 6.3 – Other than Full and Open Competition)

- 1. This document is a justification for other than full and open competition prepared by NASA's Goddard Space Flight Center (NASA's GSFC):**

NASA's GSFC proposes to enter into an interim contract for Electrical Systems Engineering Services (ESES) with Muniz Engineering, Inc. (MEI). This document justifies the determination for using other than full and open competition.

- 2. The nature and/or description of the action being approved:**

NASA's GSFC proposes an interim contract for a maximum period of 18 months.

The original ESES contract (NNG05CA97C) had a 5-year contract effective ordering period from February 5, 2005, through February 4, 2010, and was awarded as a result of a competitive 8(a) procurement. In accordance with the Code of Federal Regulations (13 CFR 124.514), the Government is precluded from adding new scope to the existing 8(a) contract, i.e., extending it to cover new requirements or increasing its maximum value. Hence, a new contract is required.

Procurement activities for the new contract began in February 2009 with the release of a Request for Information (RFI). The RFI resulted in interest expressed from small, large, and 8(a) businesses. After an extensive market assessment, the 8(a) businesses were not found to be capable of fulfilling at least 51% of the government's requirements. Therefore, on November 24, 2009, a request to change the new procurement from the 8(a) program to a small business set-aside, was submitted. On January 11, 2010, the Small Business Administration approved NASA's approach to pursue the new competitive procurement outside of the 8(a) program.

An interim contract is now necessary to cover ESES requirements due to delays in the award process for the new competitive procurement. These delays include the new requirements assumed by NASA for the Joint Polar Satellite System (JPSS) and the effort that was undertaken to determine the impact and magnitude of the JPSS on existing and future Center requirements. The estimated award date of the new competitive award is August 2011.

In accordance with ESES contract clause FAR 52.216-22, performance on existing task orders can continue up to 1 year past the contract ordering period. However, new requirements cannot be added to existing task orders after February 4, 2010. This interim contract will provide the contractual vehicle for new tasks, as well as an interim vehicle for orders on the existing contract to migrate once the performance ends on those tasks in February 2011.

In order to ensure program continuity and critical mission support and to avoid significant technical impact to NASA GSFC programs, the interim contract is necessary to cover existing requirements as well as the new scope of additional requirements until the follow-on competitive contract is awarded. The interim contract effective ordering period will be for 18 months.

The interim contract ensures program continuity and critical mission support to the following NASA GSFC's programs: Landsat Data Continuity Mission, James Webb Space Telescope, Soil Moisture Active-Passive, Global Precipitation Measurement Mission (GPM), and the JPSS. These requirements depend on the in-depth knowledge of NASA GSFC's systems, management structure, and personnel. An interruption and restart of those tasks, with a new contractor that is unfamiliar with the NASA GSFC's environment and the specific requirements of the ESES contract, would greatly jeopardize the success of NASA GSFC's implementation of critical and highly visible Agency programs. This includes the GPM flight harness which is currently in fabrication.

3. Description of the supplies or services required, including an estimated value:

The scope of work of the existing contract requires the contractor to provide on/off-site electrical engineering services, pursuant to task orders issued by the Contracting Officer (CO). These services shall include the personnel, facilities, and materials (unless otherwise provided by the Government) to accomplish the tasks.

The services that MEI will provide for the interim contract are a continuation of these services under the existing contract which expired on February 4, 2010. The cost estimate for the 18-month interim contract is \$99,000,000.

4. Statutory authority permitting other than full and open competition:

The applicable statutory authority permitting other than full and open competition is 10 U.S.C. 2304 (c) (1), as cited under FAR 6.302-1, only one responsible source, and no other supplies or services will satisfy Agency requirements.

5. A demonstration that the proposed contractor's unique qualifications or the nature of the acquisition requires use of the authority cited:

A sole source award is necessary due to the nature of the work to be performed under this contract. MEI has the combined training, experience, and expertise to provide uninterrupted continuation of mission critical support. This mission critical support provides planning, scheduling, configuration management, flight hardware development, management information systems, and accounting, among other services, to numerous NASA GSFC programs, including flight programs that are currently under development or ongoing operations. If NASA GSFC attempts to procure these services from any other source for this interim period, it would cause unacceptable delays. These services are absolutely required to ensure the success of the following critical events:

- a. Geostationary Operational Environmental Satellite P Launch, in support of on-orbit operations, March 2010 and beyond
- b. GPM Mission System Development, starting January 2010
- c. Landsat Data Continuity Mission Launch, December 2012
- d. Magnetospheric Multiscale Subsystem Review, starting 2010

Significant delays would occur to GPM's hardware build for the electrical systems that will integrate flight, ground, and instrument and launch systems, including the GPM flight harness build. These delays include the design of systems associated with subsystems and operational systems that would also negatively impact scheduling for the Japan Aerospace Exploration Agency (JAXA). The project's schedule, including integration and test, launch and payloads, would be negatively impacted at an estimated unrecoverable cost of \$2 million monthly, due to the transition to a new management team, staff, schedules, systems, and the time it would take for phase-in and to gain the expertise needed to fulfill NASA's GPM mission. This impact affects not just NASA GSFC but all collaborated efforts coordinated with other agencies, especially JAXA.

The Government is currently working to award a follow-on competitive contract that will also include a phase-in period. This new competitive contract is expected to be awarded in August 2011. Because of the time involved in procuring and phasing in another contract, MEI is considered the only contractor that can meet NASA GSFC's needs given the short term of the interim contract.

6. Description of the efforts made to ensure that offers are solicited from as many potential sources as practicable, including whether a notice was or will be publicized as required by Federal Acquisition Regulation (FAR) 5.202:

In accordance with Part 5.2 of the FAR, a synopsis was issued on December 29, 2009, to notify all interested sources that this requirement will be issued on a sole source basis and to allow industry an opportunity to submit a response.

7. A determination by the CO that the anticipated cost to the Government will be fair and reasonable:

Upon receipt of a cost proposal from MEI, Inc., an evaluation of the proposal will be conducted in accordance with FAR Part 15.4, Contract Pricing, to ensure that the cost to the Government is fair and reasonable. In addition, rates will be reviewed for reasonableness prior to each task being issued as is the practice with the current contract.

8. Description of the market research conducted, and the results, or a statement of the reasons market research was not conducted:

A notice to Federal Business Opportunities (FedBizOpps) was published to announce NASA GSFC's intentions to award a sole source contract. The result of the synopsis is included in paragraph 10. These intentions were based on NASA GSFC's technical personnel's knowledge of market conditions and capabilities at this time. There is no

known company that has the ability to become familiar with the ESES I contract and continue the operations for the short duration of this interim contract without an unacceptable delay to mission critical support. In order to acquire the requisite knowledge, substantial interactions with NASA GSFC's Applied Engineering and Technology Directorate (AETD) would be necessary and would require much, if not most, of the minimal period needed for the interim contract. Based on these limitations and the brief 18-month duration of the interim contract, no formal market research was done in light of these circumstances and the impending competitive procurement.

9. Other facts supporting the use of other than full and open competition:

Since these functions are to be continued for the proposed interim contract, detailed knowledge of the existing ESES contract greatly aids the contractor's ability to effectively and efficiently manage the tasks in a timely manner during the proposed interim contract. This will benefit the Government through lower technical risk. MEI, Inc. is the only entity possessing this detailed knowledge as it has managed the effort for NASA GSFC's AETD since February 5, 2005. Furthermore, it is anticipated that an award to any other source for this interim contract would result in unacceptable delays in fulfilling NASA GSFC's requirements.

10. Sources, if any, that expressed an interest, in writing, in the acquisition:

The synopsis was issued on December 29, 2009, on the NAIS website. To date, there have been no inquiries or challenges from interested parties expressing that they could do the work that is needed for this ESES interim contract.

11. The actions the Agency may take to remove or overcome any barriers to competition before any subsequent acquisition for the supplies or services required:

There are no barriers to competition for these services at the end of this interim contract. The new competitive award was delayed due in part to the market assessment which determined that the 8(a) companies that responded to the RFI were only partially capable of providing at least 51% of the effort required. A major reason for this is the extensive manufacturing efforts and other specialized efforts required for this effort resulting in most small businesses not possessing the in-house capability to perform the work. Manufacturing, an integral component, accounts for approximately 34% of the ESES requirement. Further delays were attributed to programmatic assessments that are being made associated with the potential impact of the additional work that will be required due to GSFC assuming the JPSS program. Therefore, this action will have no effect on future actions and no further action is required to remove barriers to future competitions.